



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

08/823, 534 03/24/97 JOHNSON J 7709.2909C2

023552  
MERCHANT & GOULD  
P O BOX 2903  
MINNEAPOLIS MN 55402-0903

TM02/0111

EXAMINER

MOVEMENT	ART UNIT	PAPER NUMBER
----------	----------	--------------

2165  
DATE MAILED:

01/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. 08/823,534	Applicant(s) Jerome D. Johnson
Examiner Cuong H. Nguyen	Group Art Unit 2165

Responsive to communication(s) filed on Aug 23, 2000

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claim

Claim(s) 30-55 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 30-55 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Application/Control Number: 08/823534

Art Unit: 2165

**DETAILED ACTION**

1. This Office Action is the answer to the communication received on 8/23/2000 (the change of customer number), which paper has been placed of record.
2. Claims **30-55** are pending in this application.
3. The following rejections are based on the examiner's broadest reasonable interpretation of the claims; *In re Pearson*, 181 USPQ 641 (CCPA 1974).

***Drawings***

4. 43 pages of formal drawings were received on 2/15/2000.

***Response***

5. Since previous examiner 's Reason For Allowance is based on the following: "The prior art of record fails to teach the limitation added by amendment which specifies that the customized visual output comprises a single composite visual output relating to the product for sale". The current examiner submits that new ground of rejections comprising "composite image" features, which essentially applies in this application (and in e-commerce), this subject matter is notoriously well-known in the computer art. It is widely used in e-commerce as an application at the time of invention. The above subject matter for Reason of Allowance is merely "customized an output having made of many

08/823,534  
Art Unit 2165

parts"; this feature is obviously suggested in US Pat. 5,099,422 by Foresman et al. (an integrator is used to integrate graphical data to forming outputs see '422 9:50-61, 11:3-13, 11:52-62 .etc.), and in US Pat. 5,383,111 by Homma et al. (See '111 the background, and the summary of the invention, 15:46-52 .etc.) This Reason for Allowance is also the only amended feature in independent claims 30, 39, 46, and 55; therefore, the examiner would make **35 USC § 103(a)** rejections for claims 30-55 because the cited references would suggest a person of skill in the art to make that combination.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims **30-55** are rejected under 35 U.S.C. 103(a) as being unpatentable over Girouard et al. (4,982,346) in view of Lockwood et al. (4,359,631), Homma et al. (US Pat. 5,383,111), further in view of Foresman et al. (US Pat. 5,099,422).

08/823,534  
Art Unit 2165

Girouard et al. and Lockwood et al. disclose a computerized system for generating a customized, printed proposal to an individual customer for the individual customer's purchase of a product, the product being characterized by a variety of predetermined distinctive features and environments of product use which are of varying interest to different potential customers who may purchase the product, the customized, printed proposal generated by the system being characterized by pictures and text representative of individualized features and environments which are of particular interest to the individual customer who is to receive the proposal, the system comprising (Girouard et al., col. 1, lines 20-44; Lockwood et al. col. 1, lines 46-68, col. 2, lines 1-14):

Girouard et al. disclose :

(a) database means (database files, Fig. 11, item 164, col. 5, lines 6-7), comprising at least one database (product database file, Fig. 11, col. 7, lines 32-40) for storing a plurality of pictures and text related to the product features and environments (product name, product image, col. 7, lines 32-40), the database means comprising:

(I) product picture database means for storing a plurality of predetermined product pictures wherein each picture is related to a distinctive product feature and benefit (product database

08/823,534  
Art Unit 2165

file, Fig. 11, col. 7, lines 32-40), the plurality of predetermined product pictures being of varying interest to different potential customers who may purchase the product (product name, product image, col. 7, lines 32-40, col. 8, lines, 40-58);

(iii) product text database means for storing a plurality of predetermined product text segments related to distinctive product features (product database file, Fig. 11, col. 7, lines 32-40), the plurality of predetermined product text segments being of varying interest to different potential customers who may purchase the product (product name, product image, col. 7, lines 32-40, col. 8, lines, 40-58);

(b) user interface means for presenting a series of predetermined queries related to the varying interests of the different potential customers (survey, col. 8, lines 21-39), the user interface means comprising input means for selectively inputting (touchscreen, keyboard, Fig. 1, items 28, 30, col. 11, lines 38-58) predetermined answers to the predetermined queries (question file, questions, multiple answers, col. 8, lines 21-39), the predetermined answers corresponding to the individual customer who is to receive the proposal (col. 17, lines 5-36, col. 19, lines 6-51).

08/823,534

Art Unit 2165

However, while Girouard et al. discloses various databases (Girouard et al. col. 5, lines 6-14), printing means (Girouard et al., printer, col. 4, lines 64-68, col. 5, lines 1-2), and linking means for linking the predetermined answers with predetermined pictures (Girouard et al., col. 7, lines 20-40), Lockwood et al. discloses an environment picture database and means for generating a customized printed proposal. Lockwood et al. disclose:

(a) (ii) an environment picture database means for storing a plurality of predetermined environment pictures related to distinctive environments in which the product may be used, the plurality of predetermined environment pictures being of varying interest to different potential customers who may purchase the product (col. 1, lines 57-68, col. 2, lines 1-14, col. 5, lines 3-68); and

© processing means (central processor, col. 4, lines 39-68) for generating the customized, printed proposal, the processing means comprising linking means for linking the predetermined answers with predetermined pictures related to the individualized features and environments which are of particular interest to the individual customer who is to receive the proposal (col. 3, lines 10-41, col. 4, lines 39-68, col. 5, lines 1-6, col. 6, lines 16-21, 56-61.

08/823,534  
Art Unit 2165

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the printer means and database of Lockwood et al. in the system of Girouard et al. as providing target marketing in combination with audio-visuals can be used to motivate and influence a customer in promotions or sales (see Lockwood et al., col. 1, lines 21-58).

8. Claims **30-55** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lockwood et al. (4,359,631), Homma et al. (US Pat. 5,383,111), further in view of Foresman et al. (US Pat. 5,099,422).

A. As to claim 30:

Lockwood et al. obviously suggest a computer system assisted method of generating a customized visual output to facilitate a sale of a product, the computer system comprising one or more computers and storing product images, product environment images and text segments for integration into the customized visual output, the method comprising (see Lockwood et al. col. 1, lines 46-68, col. 2, lines 1-14):

prompting a user of the computer system with a plurality of questions related to at least one of a desired feature and desired use of the product (see Lockwood et al. Figs. 9-10, col. 7, lines 10-66, col. 8, lines 39-50); receiving into the computer system answers to the plurality of questions (see Lockwood et al.

08/823,534  
Art Unit 2165

Figs. 9-10, col. 7, lines 10-66, col. 8, lines 39-50); automatically selecting, in response to at least one of the received answers, a product image, a product environment image and a text segment (see Lockwood et al. col. 3, lines 10-41, col. 4, lines 39-68, col. 5, lines 1-6, col. 6, lines 16-21, 56-61); and integrating the selected product image, the selected product environment image and the selected text segment into a customized visual output (see Lockwood et al. col. 3, lines 10-41, col. 4, lines 39-68, col. 5, lines 1-6, col. 6, lines 16-21, 56-61).

B. As to claim 31:

Lockwood et al. obviously suggest a step of outputting the customized visual output (see Lockwood et al., col. 3, lines 30-34, col. 6, lines 16-21).

C. As to claim 32:

Lockwood et al. obviously suggest a step of outputting the customized visual output to a computer monitor for viewing by a user (see Lockwood et al., col. 3, lines 11-30, col. 5, lines 49-68, col. 6, lines 16-21).

D. As to claim 33:

Lockwood et al. obviously suggest a the step of outputting the customized visual output comprises printing the output as a printed document (see Lockwood et al., col. 3, lines 11-34, col. 6, lines 16-21, col. 7, lines 41-61).

08/823,534  
Art Unit 2165

E. As to claim 34:

Lockwood et al. obviously suggest a step of outputting the customized visual output comprises the step of configuring the printed document as a printed proposal (see Lockwood et al., col. 3, lines 11-34, col. 6, lines 16-21, col. 7, lines 41-61).

F. As to claim 35:

Lockwood et al. obviously suggest a plurality of predetermined environment text segments related to environments in which the products may be used, the method further comprising the step of linking at least one of the customer answers with predetermined environment text (see Lockwood et al., col. 7, lines 10-61).

G. As to claim 36:

Lockwood et al. obviously suggest a method wherein the computer system stores a plurality of product specifications related to producing the products in a variety of configurations, the method further comprising the step of linking at least one of the customer answers with a product specification for inclusion in the customized visual output (see Lockwood et al., col. 3, lines col. 4, lines 62-67, col. 7, lines 10-68, col. 8, lines 1-6, 39-50).

H. As to claim 37:

08/823,534  
Art Unit 2165

Lockwood et al. obviously suggest a method wherein the computer system stores a plurality of performance specifications related to performance of the products in a variety of configurations, the method further comprising the step of linking at least one of the customer answers with a performance specification for inclusion in the customized visual output (see Lockwood et al., col. 3, lines col. 4, lines 62-67, col. 7, lines 10-68, col. 8, lines 1-6, 39-50).

I. As to claim 38:

Lockwood et al. obviously suggest a method further comprising the steps of: presenting a series of predetermined queries related to financing a product (requesting information, see Lockwood et al., col. 7, lines 41-68, col. 8, lines 1-6, 48-50); receiving individualized answers to the predetermined queries (received, see Lockwood et al., col. 7, lines 41-61, col. 8, lines 39-50); and generating, for inclusion in the visual output, financing information related to the product (displayed, see Lockwood et al., col. 7, lines 41-68, col. 8, lines 1-50).

J. As to claim 39:

Lockwood et al. disclose a computer system of one or more computers (computer, see Lockwood et al., Fig. 8, items 30, 42) for generating a customized visual output to facilitate a sale of a product (see Lockwood et al., Figs. 9-10, col. 1, lines 57-68,

08/823,534  
Art Unit 2165

col. 2, lines 5-15), the system comprising: a memory system (data sources, see Lockwood et al., Fig. 7, item 26), storing product images, product environment images and text segments (see Lockwood et al., Figs. 9-10, col. 5, lines 19-65); a user interface (input interface, see Lockwood et al., col. 2, lines 65-68) provided to prompt a user of the computer system with a plurality of questions related to at least one feature and desired use of the product and to input answers to the plurality of questions (see Lockwood et al., Figs. 9-10, col. 7, lines 41-61, col. 8, lines 39-50); and a processor system (process, see Lockwood et al., Fig. 7, item 30), coupled to the memory systems (data sources, see Lockwood et al., Fig. 7, item 26) and the user interface (input interface, see Lockwood et al., col. 2, lines 65-68), wherein the processor automatically selects, in response to at least one of the input answers, a product image, a product environment image and a text segment and integrates the selected product image, the selected product environment image and the text segment into a customized visual output (see Lockwood et al., Figs. 9-10, col. 1, lines 57-68, col. 3, lines 10-34, col. 5, lines 29-64, col. 7, lines 41-66).

K. As to claim 40:

08/823,534  
Art Unit 2165

Lockwood et al. discloses the user interface provides for visual output of the customized visual output (see Lockwood et al., col. 3, lines 30-34, col. 6, lines 16-21).

L. As to claim 41:

Lockwood et al. disclose a printer for printing the customized visual output as a printed document (see Lockwood et al., col. 3, lines 11-34, col. 6, lines 16-21, col. 7, lines 41-61).

M. As to claim 42:

Lockwood et al. disclose the processor configures the printed customized visual output as a proposal (see Lockwood et al., col. 3, lines 11-34, col. 4, lines 39-68, col. 6, lines 16-21, col. 7, lines 41-61).

N. As to claim 43:

Lockwood et al. disclose the system wherein: the memory system further stores a plurality of predetermined environment text segments related to environments in which the products may be used; and the processor links at least one of the customer answers with predetermined environment text (see Lockwood et al., col. 7, lines 10-61).

P. As to claim 44:

Lockwood et al. disclose the system wherein the memory further stores a plurality of predetermined product

08/823,534  
Art Unit 2165

specifications related to producing the products in a variety of configurations; and the processor links at least one of the customer answers with a product specification for inclusion in the customized visual output (see Lockwood et al., col. 3, lines col. 4, lines 62-67, col. 7, lines 10-68, col. 8, lines 1-6, 39-50).

**Q. As to claim 45:**

Lockwood et al. disclose the system wherein: the memory further stores a plurality of predetermined performance specifications related to performance of the products in a variety of configurations; and the processor links at least one of the customer answers with a performance specification for inclusion in the customized visual output (see Lockwood et al., col. 3, lines col. 4, lines 62-67, col. 7, lines 10-68, col. 8, lines 1-6, 39-50).

**R. As to claim 46:**

Lockwood et al. discloses a computer readable medium tangibly embodying instructions, which, when executed as a process by a computer system of one or more computers, comprises the steps of: prompting a user of the computer system with a plurality of questions related to at least one of a plurality of desired features and desired uses of the product (see Lockwood et al., Figs. 9-10, col. 1, lines 46-68, col. 2, lines 1-14, col. 3,

08/823,534  
Art Unit 2165

lines 10-24, col. 4, lines 62-67, col. 7, lines 41-61, col. 8, lines 39-50); receiving into the computer system answers to the plurality of questions (see Lockwood et al., Figs. 9-10, col. 1, lines 46-68, col. 2, lines 1-14, col. 3, lines 10-24, col. 4, lines 62-67, col. 7, lines 41-61, col. 8, lines 39-50); automatically selecting, in response to at least one of the received answers, a product image, a product environment image and a text segment (see Lockwood et al., Figs. 9-10, col. 1, lines 46-68, col. 2, lines 1-14, col. 3, lines 10-24, col. 4, lines 62-67, col. 7, lines 41-61, col. 8, lines 39-50); and integrating the selected product image, the selected product environment image and the selected text segment into a customized visual output (see Lockwood et al., Figs. 9-10, col. 1, lines 46-68, col. 2, lines 1-14, col. 3, lines 10-24, col. 4, lines 62-67, col. 7, lines 41-61, col. 8, lines 39-50).

S. As to claim 47:

Lockwood et al. disclose a computer readable medium wherein the embodied instructions, when executed by the computer system, further instructs the computer system to carry out the steps of outputting the customized visual output (see Lockwood et al., col. 3, lines 11-34, col. 6, lines 16-21, col. 7, lines 41-61).

T. As to claim 48:

08/823,534  
Art Unit 2165

Lockwood et al. disclose a computer readable medium wherein the embodied instructions, when executed by the computer system, further instructs the computer system to carry out the step of outputting the customized visual output to a computer monitor for viewing by a user (col. 3, lines 30-34, col. 6, lines 16-21).

U. As to claim 49:

Lockwood et al. disclose a computer readable medium wherein the embodied instructions to output the customized visual output further instructs the computer system to carry out the step of printing the output as a printed document (col. 3, lines 11-34, col. 6, lines 16-21, col. 7, lines 41-61).

V. As to claim 50:

Lockwood et al. disclose a computer readable medium wherein the embodied instructions further instruct the computer system to configure the printed document as a printed proposal (col. 3, lines 11-34, col. 6, lines 16-21, col. 7, lines 41-61).

W. As to claim 51:

Lockwood et al. disclose a computer readable medium wherein the embodied instructions further instruct the computer system to implement process steps comprising: storing a plurality of predetermined environment text segments related to environments in which the products may be used; and linking at least one of

08/823,534  
Art Unit 2165

the customer answers with predetermined environment text (col. 7, lines 10-61).

Y. As to claim 52:

Lockwood et al. disclose a computer readable medium wherein the embodied instructions further instruct the computer system to implement process steps comprising: storing a plurality of product specifications related to producing the products in a variety of configurations; and linking at least one of the customer answers with a product specification for inclusion in the customized visual output (col. 3, lines col. 4, lines 62-67, col. 7, lines 10-68, col. 8, lines 1-6, 39-50).

AA. As to claim 53:

Lockwood et al. disclose a computer readable medium wherein the embodied instructions further instruct the computer system to implement process steps comprising: storing a plurality of performance specifications related to performance of the products in a variety of configurations; and linking at least one of the customer answers with a performance specification for inclusion in the customized visual output (col. 3, lines col. 4, lines 62-67, col. 7, lines 10-68, col. 8, lines 1-6, 39-50).

AB. As to claim 54:

Lockwood et al. discloses a computer readable medium wherein the embodied instructions further instruct the computer system to

08/823,534  
Art Unit 2165

implement process steps comprising: presenting a series of predetermined queries related to financing a product (requesting information, col. 7, lines 41-68, col. 8, lines 1-6, 48-50); receiving individualized answers to the predetermined queries (received, col. 7, lines 41-61, col. 8, lines 39-50); and generating for inclusion in the visual output, financing information related to the product (displayed, col. 7, lines 41-68, col. 8, lines 1-50).

AC. As to claim 55:

Lockwood et al. disclose a computer system assisted method of generating a customized visual output to facilitate a sale of a ware offered for sale to a customer (col. 1, lines 56-68), the computer system storing ware images, ware environment images and text segments for integration into the customized visual output (col. 3, lines 10-34), the method comprising the steps of: prompting a user of the computer system with a plurality of questions relating to at least one of a desired feature and desired use of the ware (Figs. 9-10, col. 1, lines 46-68, col. 2, lines 1-14, col. 3, lines 10-24, col. 4, lines 62-67, col. 7, lines 41-61, col. 8, lines 39-50); receiving into the computer system answers to the plurality of questions; automatically selecting, in response to at least one of the received answers, a ware image, a ware environment image and a text segment (Figs. 9-

08/823,534

Art Unit 2165

10, col. 1, lines 46-68, col. 2, lines 1-14, col. 3, lines 10-24, col. 4, lines 62-67, col. 7, lines 41-61, col. 8, lines 39-50); and integrating the selected ware image, the selected ware environment image and the selected text segment into a customized visual output (Figs. 9-10, col. 1, lines 46-68, col. 2, lines 1-14, col. 3, lines 10-24, col. 4, lines 62-67, col. 7, lines 41-61, col. 8, lines 39-50).

#### ***Conclusion***

9. Claims **1-18** are rejected.

10. These above cited references are considered pertinent to applicant's disclosure.

11. Note:

A. In re **Hiniker Co.**, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998) the court ruled: "The name of the game is the claim."

B. Although operational characteristics of an apparatus may be apparent from the specification, we will not read such characteristics into the claims when they cannot be fairly connected to the structure recited in the claims. See In re **Self**, 671 F.2d 1344, 1348, 213 USPQ 1, 5 (CCPA 1982). When given their broadest reasonable interpretation, the claims on examination sweep in the prior art, and the prior art would have directed an artisan of ordinary skill to make the combination

08/823,534

Art Unit 2165

cited by the examiner. ... discloses a structure that meets the claim limitations.

C. The use of claimed method may be outstanding in its field, but the name of the game is the claim. See **Giles Sutherland Rich**, Extend of Protection and Interpretation of Claims -- American Perspectives, 21 Int'l Rev. Indus. Prop. & Copyright L. 497, 499 (1990) ("The US is strictly an examination country and the main purpose of the examination, to which every application is subjected, is to try to make sure that what each claim defines is patentable. To coin a phrase, the name of the game is the claim." )

D. Although claims' limitations may be apparent from specification, they will not be read into claims when they can not be fairly connected to structure recited in claims, and since, when given their broadest reasonable interpretation, claims in present application sweep in cited prior art which would have directed artisan of ordinary skill to make cited combination. Therefore, further amendments must be made to improve the form of the claims.

E. About Analogous Art

*In re Oetiker* , 24 USPQ2d 1443, 1445 (Fed. Cir. 1992), the court ruled: A prior art reference is analogous if the reference is in the field of applicant's endeavor or, if not, the reference

08/823,534  
Art Unit 2165

is reasonably pertinent to the particular problem with which the inventor was concerned; and in

**Lamont v. Berguer**, 7 USPQ2d 1580 (BdPatApp&Int 1988), the court ruled: Section 103 requires us to presume that the artisan has full knowledge of the prior art in his field of endeavor and the ability to select and utilize knowledge from analogous arts.

F. The examiner submits that claimed limitations are not original/inventive concepts at all; moreover, these claims have been widely used/applied on retailed business for their generic ideas.

G. In re Heck, 216 USPO 1038 (CA FC 1983), the court ruled:

Similarly relative terms in claims are given broadest reasonable interpretation during patent application's prosecution.

H. In re Keller, Terry, and Davies, 208 USPO 871 (CCPA 1981), the court ruled: "It is not necessary that device shown in one reference can be physically inserted into device shown in other reference to justify combining their teachings in support of rejection."; and, "Test of obviousness is not whether features of secondary reference may be bodily incorporated into primary reference's structure, nor whether claimed invention is expressly suggested in any one or all of references; rather, test is what

08/823,534  
Art Unit 2165

combined teachings of references would have suggested to those of ordinary skill in art."

I. Ex parte Rubin, 5 USPO2d 1461 (BdPatApp&Int 1987); the court ruled: Knowledge in the art may have advanced such that results considered incredible are no longer per se incredible.

J. In re Susi, 169 USPO 423 (CCPA 1971), the court ruled:  
Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or non-preferred embodiments.

K. In re Heck, 216 USPO 1038 (Fed. Cir. 1983) the court ruled:  
"The use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain."

L. MPEP 2113 Product-by-Process Claims; the court ruled:  
"Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even thought the prior art product was made by a different process." In re Thorpe, 227 USPQ 964 (Fed. Cir. 1985).

08/823,534  
Art Unit 2165

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Cuong H. Nguyen, whose telephone number is (703) 305-4553. The examiner can normally be reached on Monday-Friday from 7:00 AM-4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent A. Millin, can be reached on (703) 308-1065.

Any response to this action should be mailed to:

Box Issue Fee	Amendments
---------------	------------

Commissioner of Patents and Trademarks  
c/o Technology Center 2100  
Washington, D.C. 20231

**or faxed to:** (703) 308-9051, (for formal communications  
intended for entry)

Or: (703) 305-0040 (for informal or draft communications,  
please label "PROPOSED" or "DRAFT")

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

*Cuonghnguyen*  
Cuong H. Nguyen  
Patent Examiner  
Dec. 17, 2000